Freedman HealthCare

John D. Freedman, MD, MBA, *Principal*

Commissioner Morales
Division of Health Care Finance and Policy
2 Boylston Street, 5th Floor
Boston, MA 02116

Dear Commissioner Morales:

Freedman Health Care is pleased to submit comments on the Division's proposed regulations at 114.5 CMR 21.00 and 114.5 CMR 22.00 concerning the intake and release of All Payer Claims Data. This letter summarizes particular concerns about the proposed rules. Also enclosed is a marked up version of the Data Release Regulations with recommended changes.
Freedman Health Care is a Massachusetts-based firm offering analytic and strategic support to private and public health care organizations across the country. These comments are based on Freedman's knowledge of the needs of health care decision makers, researchers and policy managers.

Freedman Health Care supports the Division's initiative to develop a truly comprehensive all payer claims data model. Inclusion of public payer and self-insured claims in the dataset represents a vitally important step forward as Massachusetts grapples with health care cost trends in the coming years. This data will be invaluable to a broad range of researchers seeking examine cost effectiveness, resource consumption, migration patterns and quality of care. The Division's proposed intake design is aligned with other states and is forward thinking, making Massachusetts a leader in giving serious thought to the broader uses of claims data.
Given the effort that the Division has invested to date as well as the significant effort ahead, Freedman Health Care recommends that the Division reconsider the following elements of the regulations. These comments are intended to ensure that the All Payer Claims Data is broadly used while also ensuring that the data available to the public and to the research community will have broad utility and scope.

Section 22.03 Procedures for Data Requests
The Division's 20 years of experience in the stewardship of the casemix data is a strong institutional starting point for this next chapter in data application review and approval. However, the definition of the Data Release Committee in the proposed regulations turns away from this experience and provides a very broad statement of membership. Clarification is needed about the committee's membership, responsibilities and whether the committee will review every application.

Members of the public serving on a voluntary basis, without a review and approval process for that membership, and without an explicit distribution of interests across the health care spectrum do not have the same responsibility to safeguard this data. More importantly, individuals with the appropriate knowledge about health care data are also likely to have conflicts of interest regarding the release of data that may or may not affect a competitive position. We recommend that the Division create a Data Release Committee consisting of knowledgeable agency staff and two members of the public with appropriate credentials and affiliations.
The regulations should also clarify whether the Data Release Committee will review some or all of the applications. In addition, the regulations should clarify the reasons that the Commissioner may deny an application.

Opportunities for streamlined approvals and document management should be pursued to allow timely fulfilling of dataset requests. "Pre-Developed Module of Public Use Files" is a new term first noted in §22.03(1)(a)and is undefined elsewhere in the regulations. If the Division intends to provide further information on public use files at some future date (rather than during this regulatory approval process) then the Division should conduct an open and transparent design process for these (see the section "Definition of public use datasets).
Requesters should be able to obtain custom datasets if the customer is willing to fully fund the cost of the developing the dataset (§22.03(1)(a)).

Definition of public use data sets

The proposed public use data elements have limited utility to researchers and analysts at any level. Without a unique member identifier or date of service, an analysis can only count or sum the costs of a particular service delivered by a particular provider. This structure will severely constrain development of even simple summaries such as number of users of a particular service by month (such as those usually distributed for data validation) or more useful age, sex, race and ethnicity and demographic distributions.

We strongly recommend that the Division consult with local and national researchers to conduct a thorough review of data needs and then proceed to create public use, restricted and "predeveloped public use module" designs.

We recommend that the Division create summary tables and aggregate level information from the All Payer Data files and make that information available on a regular basis through website downloads. These files should be available in a simple database and in extracts similar to the Hospital Service Utilization Data based on the Casemix files.

Application process

The Division should clarify its process for receipt and review of applications. A quarterly review schedule imposes a wait of up to three months for consideration of an application. The Division should publish a timetable for consideration of applications. The Division should provide a clear and explicit checklist for applicants so that all necessary information is provided prior to first submission. The criteria for approval should be explicitly stated for both the proposed Data Review Committee and any reviewers. Reasons for denial and approval should be posted on the Division's website within 45 days (maximum) of the decision.

Data Storage and Use

The Division should clearly describe its process for maintaining data security at all points in the intake and release process and post that information on its website. The information should be provided in both a technically precise format as well as in consumer-friendly language intended to ensure that all members of the public understand how this data is obtained, stored and released.

Specific Data Elements

The proposed data elements in 114.5 CMR 21 represent a thoughtful attempt to satisfy many users from many different perspectives. A few data elements need further consideration from the Division's data designers and analysts:

Denied claims: A full record of services provided across all providers and recipients is an important attempt to provide research opportunities on cost, consumption, consumers' financial responsibility and unreimbursed share of costs assumed by providers. However, the Division will need to invest effort in distinguishing "denials" from "capitated" claims and significantly expand its warehouse capacity, data processing timeframes, and investment in documentation resources to ensure that these claims are treated appropriately in different types of analyses.
Payer Name: Redacting payer name masks the information for the general public but not to insiders familiar with standard fee schedules. An analysis of the range of payments for a particular service by provider will allow reasonably accurate identification of payers. This is counter to the Division's goals of transparency. We recommend including payer name in the public use data sets.

Provider Name and Identifiers: We recommend that the Division set careful requirements for the provider file to ensure that the incoming records can be reasonably and accurately aggregated. The Division should develop a protocol for matching and identifying provider names across payers to ensure that the final provider directory is relatively standardized.

With respect to longer term planning, we recommend that the Division consider strategies to obtain and incorporate results from laboratory tests. Test results, when combined with prescription drug submissions are a powerful, emerging opportunity to develop timely outcome reporting and trend analysis. We recommend that the Division begin considering how to join forces with HIT and electronic health record (EHR) entities around the state to understand the potential for linkages between the All Payer Data and EHRs.

Thank you for this opportunity to comment on the All Payer Claims Data regulations. Please do not hesitate to call if you have any questions.

Sincerely,

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Amy M. Lischko